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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,649	07/31/2003	Carl Schoeneberger	NUASI-00102	3555
7590	08/11/2004		EXAMINER	
Thomas B. Haverstock HAVERSTOCK & OWENS LLP 162 North Wolfe Road Sunnyvale, CA 94086			JUNTIMA, NITTAYA	
			ART UNIT	PAPER NUMBER
			2663	

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/632,649	SCHOENEBERGER ET AL.	

Examiner	Art Unit
Nittaya Juntima	2663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 31 July 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-90 is/are pending in the application.
 - 4a) Of the above claim(s) 33-42 is/are withdrawn from consideration.
- 5) Claim(s) 1-6,8-16,18-26,28-32,56-62 and 64-68 is/are allowed.
- 6) Claim(s) 7,17,27,43,45-52,63,69,72-76,80,83-87 is/are rejected.
- 7) Claim(s) 44,53-55,70,71,77-79,81-82 and 88-90 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 31 July 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>9/29/03-6/29/04</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-32, 43-90, drawn to system and method of high availability voice over internet protocol, classified in class 370, subclass 352.

II. Claims 33-42, drawn to system and method of routing SIP protocol voice calls using a proxy server priority table having a proxy address, classified in class 370, subclass 216.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because a system of high availability voice over internet protocol of invention I does not require a system of routing SIP protocol voice calls using a proxy server priority table having a proxy address of invention II.

2. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

3. During a telephone conversation with Thomas Haverstock on July 29, 2004 a provisional election was made without traverse to prosecute the invention of group I,

claims 1-32 and 43-90. Affirmation of this election must be made by applicant in replying to this Office action. Claims 33-42 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Specification

4. The disclosure is objected to because of the following informalities:

- the status of the U.S. patent applications recited in the specification should be updated.

Appropriate correction is required.

Claim Objections

5. Claims 1, 5, 9, 11, 13, 31, 43-44, 48, 52, 54, 56, 61, 65, 67, 78, and 89 are objected to because of the following informalities:

- claim 1, ll 4, "public switched telephone" should be changed to "voice telephony,"

ll 9, "a lost call" may be changed to "a lost voice call" to provide a relationship between the lost call and the voice call in step a and, therefore, put the claim in a better form;

- claims 5, 48, and 61, ll 3, "the" should be changed to "a;"
- claims 9, 52, and 65, ll 2, "calls" should be changed to "call;"
- claims 11, 13, 31, 54, 67, 78, and 89, "SDP" should be spelled out as "Session Description Protocol" to avoid any misinterpretation'
- claim 43, ll 4, "public switched telephone" should be changed to "voice

telephony;”

- claim 44, ll 3, , “a lost call” may be changed to “a lost voice call” to provide a relationship between the lost call and the voice call in claim 43 and, therefore, put the claim in a better form.

- claim 56, ll 4, “public switched telephone” should be changed to “voice telephony,”

ll 7, “a lost call” may be changed to “a lost voice call” to provide a relationship between the lost call and the voice call in step a and, therefore, put the claim in a better form.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7, 17, 27, 50, 63, 74, and 85 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 7, 17, 27, 50, 63, 74, and 85, the limitation “wherein the at least one node is coupled to each of the at least one hub...” is vague and indefinite. It cannot be determined from the claimed language as why “the at least one node” (as recited in claims 6, 16, 26, 49, 62, 73, and 84 which claims 7, 17, 27, 50, 63, 74, and 85 depends upon, respectively) would be coupled to each of the at least one hub with a LAN connection while it is already coupled to each of the hub a WAN connection as recited in

claims 6, 16, 26, 49, 62, 73, and 84. Fig. 1 also shows that each node, e.g. CHI, STL, or HOU, is connected to hub 115 via either LAN or WAN, but not both. Therefore, the claims are vague and indefinite.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 43, 45-49, 51-52, 69, 72-73, 75-76, 80, 83-84, and 86-87** are rejected under 35 U.S.C. 103(a) as being unpatentable over Donovan (USPN 6,434,143 B1).

Regarding **claim 43**, as shown in Fig. 1, Donovan teaches **a gateway** (21a) configured to receive **a voice call** (voice call received at gateway 21a prior to an INVITE request sent from gateway 21a during call setup, col. 3, ll 17-19) from **the voice telephony network** (an inherent voice network having PBX 19a, col. 2, ll 65-67), wherein the gateway is coupled to **at least one hub** (at least one hub reads on a location where the service control entity 29, location manager 31, network server 23, and integrated messaging system 25 reside), and **a proxy table** (a proxy table, i.e. routing/forwarding table, must be included in gateway 21a for forwarding an INVITE request to a proxy server- NS 23, col. 3, ll 10-12 and 17-19), the gateway sends the voice call to **a proxy server** (NS 23) (SIP is sent from gateway 21a to NS 23, col. 2, ll 65-col. 3, ll 1-4 and 17-23).

Donovan fails to teach a plurality of gateways as recited in the claim.

However, it would have been obvious to one skilled in the art at the time the invention was made to modify the teaching of Donovan such that a plurality of gateways, e.g. three gateways working in similar fashion as gateway 21a and serving three different groups of customers would be included as recited in the claim. The suggestion/motivation to do so would have been to accommodate an increase in VoIP call volume/users in which such modification involves only routine skill in the art.

Regarding **claim 45**, Donovan teaches that ***the hub*** (a location where the service control entity 29, location manager 31, network server 23, and integrated messaging system 25 reside, Fig. 1) is configured to receive voice call from the gateway (SIP portion is received by NS 23 and RTP portion is received by IMS 25, col. 3, ll 17-23, see also col. 1, ll 24-31 and 58-62) and a voice call is divided into ***a SIP portion and a RTP portion*** (col. 2, ll 67-col. 3, ll 1-4, and 8-10, see also col. 1, ll 24-32).

Regarding **claim 46**, Donovan teaches that ***a proxy server*** (NS 23) in ***the hub*** (a location where the service control entity 29, location manager 31, network server 23, and integrated messaging system 25 reside, Fig. 1) is configured to receive the SIP (signaling) portion of the voice call (col. 3, ll 10-23).

Regarding **claim 47**, Donovan teaches that ***a media server*** (IMS 25) in ***the hub*** (a location where the service control entity 29, location manager 31, network server 23, and integrated messaging system 25 reside, Fig. 1) is configured to receive ***the RTP portion*** (voice) for the voice call (col. 1, ll 24-31 and 58-62).

Regarding **claims 48, 72, and 83**, Donovan teaches that ***the hub*** (a location where the service control entity 29, location manager 31, network server 23, and integrated messaging system 25 reside, Fig. 1) includes ***an application server*** (not defined, reads on

a location manager 31) coupled by *an interface logic* (not defined, reads on an output port on the location manger 31 connected to NS 23) to communicate with *the proxy server* (NS 23) and *a media server* (IMS 25) (col. 3, ll 24-39).

Regarding **claims 49, 73, and 84**, as shown in Fig. 1, Donovan teaches that *at least one node* (not defined, reads on a location where network server 23 and integrated messaging system 25 reside, excluding the service control entity 29 and location manager 31) coupled to *the hub* (a location where the service control entity 29, location manager 31, network server 23, and integrated messaging system 25 reside) with *a wide area network* (Internet 17) connection, wherein the node includes *a single proxy* (NS 23, col. 3, ll 10-12) and *a single media server* (IMS 25 for handling voice deposit and retrieval, col. 1, ll 58-62).

Regarding **claims 51-52, 75-76, and 86-87**, Donovan fails to teach that the remaining of the gateways remain operational when one of the gateways fails and a load balancing switch for directing any of the at least one voice to the plurality of gateways as recited in the claims.

However, it would have been obvious to one skilled in the art to modify the teaching of Donovan to include configuring the plurality of gateways as explained in claim 43 to remain operational if one fails and to include a load balancing switch for directing any of the at least voice call to the plurality of gateways. The motivation/suggestion to do so would have been to provide stability and reliability to the entire system and to prevent any of the gateways from being overload which is a well known benefit of load balancing, respectively.

Claim 69 is a method claim corresponding to the combined system claims 43 and 45-47, therefore, is rejected under the same reason set forth in the rejection of claims 43 and 45-47.

Claim 80 is a method claim corresponding to the combined system claims 43 and 45-47, therefore, is rejected under the same reason set forth in the rejection of claims 43 and 45-47, with an exception that a call restoration data table of claim 80 (function is not defined) reads on a proxy table of claim 43 without its claimed function.

Allowable Subject Matter

9. Claims 1-6, 8-16, 18-26, 28-32, 56-62, 64-65, and 66-68 are allowed. The prior art alone or in combination fail to teach or make obvious on the following when considered in combination with other limitations in the claim:

Claims 1 and 56: a call restoration data table configured in each of the plurality gateways, wherein the call restoration data table provides data to restore a lost voice call.

Claims 13 and 23: implementing a proxy table and a call restoration data table in each of the plurality of gateways.

10. Claims 44, 53-55, 70-71, 77-79, 81-82, and 88-90 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Art Unit: 2663

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nittaya Juntima whose telephone number is 703-306-4821. The examiner can normally be reached on Monday through Friday, 8:00 A.M. - 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on 703-308-5340. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nittaya Juntima
August 9, 2004

Ng

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